

**IN THE UNITED STATES DISTRICT COURT  
FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA**

JANE WALKO,

Plaintiff

V.

PENN CREDIT CORPORATION,

Defendant

**Case No.:**

## COMPLAINT AND DEMAND FOR JURY TRIAL

## (Unlawful Debt Collection Practices)

## COMPLAINT

JANE WALKO (hereinafter “Plaintiff”), by her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against PENN CREDIT CORPORATION (hereinafter “Defendant”):

# INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

## JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28

1 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising  
2 under the laws of the United States.

3  
4 3. Defendant conducts business and has an office in the Commonwealth  
5 of Pennsylvania, and therefore, personal jurisdiction is established.

6 4. Venue is proper pursuant to 28 U.S.C. §1391(b)(1).  
7

### 8 **PARTIES**

9 5. Plaintiff is a natural person residing in Edwardsville, Pennsylvania  
10 18704.

11 6. Plaintiff is a person granted a cause of action under the FDCPA. See  
12 15 U.S.C. § 1692k(a) and Wenrich v. Cole, 2000 U.S. Dist. LEXIS 18687 (E.D.  
13 Pa. Dec. 22, 2000).  
14

15 7. Defendant is a debt collection company with its corporate  
16 headquarters located at 916 South 14<sup>th</sup> Street, Harrisburg, Pennsylvania 17104.  
17

18 8. Defendant is a debt collector as that term is defined by 15 U.S.C. §  
19 1692a(6), and repeatedly contacted Plaintiff in its attempts to collect a consumer  
20 debt.  
21

22 9. Defendant acted through its agents, employees, officers, members,  
23 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
24 representatives, and insurers.  
25

**FACTUAL ALLEGATIONS**

10. At all pertinent times hereto, Defendant was hired to collect a consumer debt and contacted Plaintiff in its attempts to collect a consumer debt of another person.

11. Upon information and belief, the alleged debt at issue arose out of transactions, which were primarily for personal, family, or household purposes.

12. Beginning in or before September 2014 and continuing through November 2014, Defendant repeatedly contacted Plaintiff on her home telephone in its attempts to collect a debt of another person, specifically a person named “Amber Jane Walko Rae.”

13. Plaintiff knew it was Defendant calling because she has spoken with its collectors and received voicemail messages, wherein Defendant identified itself as “Penn Credit Corp.”

14. Defendant contacted Plaintiff several times a week, and at times multiple times a day, during the relevant period.

15. For example, Defendant called Plaintiff on October 6, 2014, at 11:10 a.m.; October 9, 2014, at 6:43 p.m.; October 20, 2014, at 12:54 p.m. and 3:50 p.m.; October 30, 2014, at 5:28 p.m. and 6:28 p.m.; October 31, 2014, at 3:01 p.m.; November 4, 2014, at 2:42 p.m.; November 5, 2014, at 7:33 p.m. and 8:03 p.m.; November 10, 2014, at 2:56 p.m.; November 13, 2014, at 7:22 p.m. and 7:52

1 p.m.; and November 14, 2014, at 1:43 p.m.

2 16. In those instances when the parties spoke, Defendant's collectors  
3 claimed they were calling to collect a debt from a third party named "Amber Jane  
4 Walko Rae."  
5

6 17. Plaintiff is not "Amber Jane Walko Rae" and no one named "Amber  
7 Jane Walko Rae" lives at the number Defendant was calling.  
8

9 18. On numerous occasions, Plaintiff informed Defendant that she was  
10 not "Amber Jane Walko Rae," that no one named "Amber Jane Walko Rae" lived  
11 at the number it was calling, to remove her number from its database, and to stop  
12 calling her.  
13

14 19. Defendant's collectors acknowledged Plaintiff's request, claiming  
15 that her telephone number would be removed from the database and that its calls  
16 would stop.  
17

18 20. However, Defendant continued to call in its attempts to collect a debt  
19 of a third person.

20 21. When Defendant was told that the debtor could not be found at the  
21 number being called, there was no purpose for additional calls to Plaintiff except  
22 to harass, annoy or abuse Plaintiff.  
23

24 22. Defendant failed to update its records and/or failed to investigate the  
25 information provided by Plaintiff to avoid further harassment.

1           23. Defendant conducted its debt collection activities in ways that  
2 violated the FDCPA.

3  
4                           **DEFENDANT VIOLATED**  
5                           **THE FAIR DEBT COLLECTION PRACTICES ACT**  
6                           **COUNT I**

7           24. Defendant's conduct, detailed in the preceding paragraphs, violated  
8 15 U.S.C. § 1692b(3).

9           a. Section 1692b(3) of the FDCPA prohibits a debt collector from  
10 communicating with any person other than a consumer more  
11 than once unless requested to do so by such person or unless  
12 the debt collector reasonably believes that the earlier response  
13 of such person is erroneous or incomplete and that such person  
14 now has correct or complete location information.

15  
16           b. Here, Defendant violated §1692b(3) of the FDCPA by  
17 communicating with Plaintiff more than once about another  
18 person's debt, despite having been notified that it was calling  
19 the wrong person and that Plaintiff did not want to receive its  
20 collection calls.  
21

22  
23                           **COUNT II**

24           25. Defendant's conduct, as detailed in the preceding paragraphs,  
25 violated 15 U.S.C. §§ 1692d and 1692d(5).

- 1           a.     Section 1692d of the FDCPA prohibits debt collectors from  
2                     engaging in any conduct the natural consequences of which is  
3                     to harass, oppress or abuse any person in connection with the  
4                     collection of a debt.  
5  
6           b.     Section 1692d(5) of the FDCPA prohibits debt collectors from  
7                     causing a telephone to ring or engaging any person in telephone  
8                     conversation repeatedly or continuously with the intent to  
9                     annoy, abuse, or harass any person at the called number.  
10  
11          c.     Defendant violated §§ 1692d and 1692d(5) of the FDCPA when  
12                     it called Plaintiff several times a week, including multiple calls  
13                     a day, with the intent to annoy, abuse and harass Plaintiff, as  
14                     Plaintiff had informed Defendant on more than one occasion it  
15                     was calling the wrong person.  
16

17                                     **COUNT III**  
18

19           26.    Defendant's conduct, detailed in the preceding paragraphs, violated 15  
20 U.S.C. § 1692f.

- 21           a.     Section 1692f of the FDCPA prohibits debt collectors from  
22                     using unfair or unconscionable means to collect or attempt to  
23                     collect any debt.  
24  
25          b.     Here, Defendant violated § 1692f of the FDCPA by failing to

1 update its records to avoid the further harassment of Plaintiff  
2 after having been told it was calling the wrong person, as well  
3 as failing to remove Plaintiff's number from its call logs, as  
4 evidenced by its continued calls to Plaintiff.  
5

6 WHEREFORE, Plaintiff, JANE WALKO, respectfully requests  
7 judgment be entered against Defendant, PENN CREDIT  
8 CORPORATION, for the following:  
9

- 10 a. All actual damages suffered pursuant to 15 U.S.C. §  
11 1692k(a)(1);  
12  
13 b. Statutory damages of \$1,000.00 for the violation of the FDCPA  
14 pursuant to 15 U.S.C. § 1692k(a)(2)(A);  
15  
16 c. All reasonable attorneys' fees, witness fees, court costs and  
17 other litigation costs incurred by Plaintiff pursuant to 15 U.S.C.  
18 §1693k(a)(3); and  
19  
20 d. Any other relief that this Honorable Court deems appropriate.

21 **DEMAND FOR JURY TRIAL**

22 PLEASE TAKE NOTICE that Plaintiff, JANE WALKO, demands a jury  
23 trial in this case.  
24  
25 .

1 RESPECTFULLY SUBMITTED,

2 DATED: December 3, 2014

KIMMEL & SILVERMAN, P.C.

3  
4 By: /s/ Craig Thor Kimmel

CRAIG THOR KIMMEL

5 PA Attorney Id. No. 57100

6 30 E. Butler Pike

Ambler, PA 19002

7 Phone: (215) 540-8888 ext. 116

8 Fax: (877) 788-2864

Email: kimmel@creditlaw.com